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Connecticut General Assembly
PCSW
Permanent Commission on the Status of Women
The State's leading force for women's equality since 1973.

Testimony of
The Permanent Commission on the Status of Women
Before the
Insurance and Real Estate Committee
February 19, 2013

Re: S.B. 446, AAC Health Insurance Coverage and Tort Reform
S.B. 862, AA Requiring Health Insurance Coverage for Lung Cancer Screening
H.B. 5644, AA Requiring Health Insurance Coverage of Fertility Preservation

Senators Crisco and Kelly, Representatives Megna and Sampson, and members of the committee, thank you for this opportunity to provide testimony on behalf of the Permanent Commission on the Status of Women (PCSW) regarding the above referenced bills.

S.B. 446, AAC Health Insurance Coverage and Tort Reform

S.B. 446 would reduce the number of health insurance mandates and reform medical malpractice liability, which could be detrimental to the health insurance coverage and protections for women in the State.

Impact on CT Women: Health Insurance Mandates

Currently, Connecticut has 55 mandates to provide health services, including the following mandates that ***only*** address women's health:

- Mammography and breast cancer screening;
- Direct access to obstetricians and gynecologists;
- A minimum 48-hour hospital stay after vaginal delivery and minimum 96-hour hospital stay after caesarian delivery;
- A minimum 48-hour hospital stay after mastectomy or lymph node dissection;
- Insurance coverage for prescription contraceptives;
- Medically necessary costs of diagnosing and treating infertility;
- Medically necessary breast implant removal;
- Surgical removal of breasts due to tumors, and the ability to obtain a wig if prescribed by a licensed oncologist for a patient suffering hair loss from chemotherapy, and;
- Breast reconstruction after a mastectomy.

If these mandates exist under state law, they will continue under the Affordable Health Care Act to be implemented in 2014. Eliminating these mandates prior to the implementation of the ACA may jeopardize existing healthcare coverage for women (51% of the state's population[1]). We urge the Legislature to maintain women's health services under the implementation of the Affordable Health Care Act.

Impact on CT Women: Medical Malpractice Liability

Since the language in S.B. 446 does not detail the proposed tort reforms for medical malpractice liability, PCSW will address two issues of concern that have been raised in past legislative proposals: first, rapidly rising medical malpractice premiums have disproportionately affected obstetrician/gynecologists (OB/GYN's) who provide vital reproductive health care to women; and second, caps on non-economic damages would disproportionately harm female patients who are victims of malpractice.

The premiums of OB/GYN's are unfair and intolerable. We have learned that some OB/GYN's have stopped delivering babies because that is the part of the practice that carries the highest risk. Some group practices have required their OB/GYN's to take 'sabbaticals' from delivering babies in order to reduce premiums for the practice as a whole. As a result of these strategies, women patients must have their babies with a physician they have not previously met. Moreover, young doctors and medical students are not choosing to enter this specialty, and doctors with family responsibilities who might wish to work part-time are not able to make that choice because it is not economically feasible to do so. This is bad medicine – it is not good for patients or for physicians who want to provide the best care they can to women.

Empirical research conducted by law professor Lucinda Finley on gynecological malpractice cases shows that non-economic damages comprised approximately 75% of women's total awards. The reason is that the harm suffered by women in these cases includes impaired fertility or sexual functioning, miscarriage, incontinence, and disfigurement of intimate areas of the body and these consequences, while very significant, are not directly related to economic losses. Finley concludes that capping non-economic damages will have a discriminatory impact on women patients that will be "the greatest when women experience the most profound sort of harm to their sexual and reproductive lives."

Additionally, as Connecticut women earn 22% less than men earn;[2] limiting damages to primarily economic damages perpetuates this inequality in the face of injuries caused by malpractice. Women also have a longer life expectancy and are more likely to be old and poor. The tort system has two important purposes - on the one hand, to compensate victims of negligence or intentional harm and, on the other hand, to deter negligent or intentionally harmful behavior. For older, poor victims of malpractice with very modest streams of income, there would be little compensation and *no deterrence against malpractice* in their medical care because the economic risk is so low.

We advocate a balanced, comprehensive approach to medical malpractice reform that emphasizes patient safety, fairness in litigation procedures, stronger oversight of doctors who commit malpractice, and much greater state regulation of the rate-setting practices of the insurers.

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[1] U.S. Census Bureau, American Fact Finder. *Connecticut Selected Economic Characteristics: 2005-2007.*

[2] American Association of University Women. *The Simple Truth about the Pay Gap*, 2012.

S.B. 862, AA Requiring Health Insurance Coverage for Lung Cancer Screening

S.B. 862 would require health insurance coverage for lung cancer screening tests. Lung cancer is the leading cause of cancer deaths for both women and men; more people die of lung cancer than of colon, breast, and prostate cancer combined each year.[3] Passage of this bill could potentially assist thousands of Connecticut insureds to diagnose and treat lung cancer earlier.

CT Specific Data/The Impact on Connecticut Women[4]

- 109,690 women were diagnosed with new cases of lung cancer in 2012.
- 1,335 women are diagnosed with lung cancer annually.
- Lung cancer represents 14% of all cancers diagnosed for women.
- Lung cancer results in 25% of cancer deaths in Connecticut women.

H.B. 5644, AA Requiring Health Insurance Coverage of Fertility Preservation

H.B. 5644 would require health insurance coverage for fertility preservation for insureds that may become infertile as a result of conducting a necessary medical procedure related to cancer and other conditions.

In the United States there are approximately 800,000 reproductive-aged men and women who have cancer, many of whom have concerns about their fertility.[5] Lifesaving cancer treatments may reduce fertility by destroying eggs and sperm - eggs do not regenerate; their loss is permanent and premature menopause may occur as a result.[6]

According to the American Society for Reproductive Medicine (ASRM),[7] a lack of money is the biggest barrier preventing women with cancer who have received counseling on fertility preservation from following through with it. Women reporting to a reproductive health clinic for fertility preservation (FP) counseling were surveyed before and after their new patient consultations, again at the time they made their decisions about FP and then, six to eight months later. Of those surveyed at the third time point (decision-making), 90% identified cost and lack of insurance coverage as their reasons for not undergoing fertility preservation.

The cost for embryo preservation is significant. ASRM conducted a survey, with 48 clinics responding, and found that the average costs for FP was between $6,608 to $8,285 for embryo preservation and $244 to $381 for sperm preservation.[8] Providing insurance coverage for FP will substantially increase the opportunity for those affected to preserve their fertility.

We look forward to working with you to address these important issues. Thank you for your consideration.

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[3] American Cancer Society. *What are the key statistics about lung cancer?* February 2012.

[4] The CT Tumor Registry, Cancer in Connecticut with a Focus on Tobacco Related Cancers, February 2009.

[5] American Society for Reproductive Medicine. *Patient's Fact Sheet: Cancer and Fertility Preservation,* January 2004, <www.arsm.org>.

[6] Ibid.

[7] American Society for Reproductive Medicine. *Fertility Preservation for Cancer Patients: Demographic Disparities in Counseling and Financial Concerns Are Barriers to Utilization,* October 23, 2001, <http://www.sart.org/Fertility_Preservation_for_Cancer_Patients_Demographic_Disparities_in_Counseling_and_Financial_Concerns_Are_Barriers_to_Utilization>.

[8] Ibid.